IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1316 of 1982

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HONOURABLE MR.JUSTICE KS JHAVERI

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GSRTC - Appellant(s)
Versus
RAMNIKLAL M RATHOD & 6 - Defendant(s)

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Appearance :
MR MD PANDYA for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 7.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/07/2006

ORAL JUDGMENT

1. This appeal is at the instance of the Gujarat State Road Transport Corporation against the judgement and award dated 15th December 1981 passed by the Motor accident Claims Tribunal, Rajkot in Claim Case No.142 of 1980 whereby the Tribunal has awarded a sum of Rs.54000/- as compensation to the original claimants.

2. In the accident in question the bus went inside the compound of a bungalow and knocked down the girl Ilaben Ramniklal who has expired. The legal heirs of

said Ilaben have therefore filed the aforesaid claim petition which was partly allowed.

3. Learned Advocate for the appellant submitted that Tribunal ought to have deducted two-third income of the deceased and should have calculated the dependency benefits accordingly.

4. In the case of Ranchhodbhai Somabhai V. Babubhai Bhailalbhai, reported in 1982 GLH page 28 it has been held that two third of the datum figure would be diverted by the deceased for the maintenance of his own family and one third for the maintenance of his parents. Similar principle has been laid down in a subsequent decision of this Court in the case of Smt. Rafia Sultan, Widow of Mirsa Sultan Alil V. Oil and Natural Gas Commission, reported in 1985(2) GLR page 1315. In the present case the datum figure arrived at by the Tribunal is 48000/-. Deducting 2/3 of the same, the amount would come to Rs.16000/-. Therefore the claimants would be entitled to only Rs.16000/- on this account. The amount awarded under the head of conventional amount of Rs.5000/- and Rs.1000/- towards funeral and obsequial ceremonies are not disturbed.

4. No other contentions are raised.

5. In the premises aforesaid the Claimants shall be entitled to a total sum of Rs.22000/- instead of Rs.54000/- as awarded by the Tribunal. Such amount

shall carry interest and costs as awarded by the Tribunal. The award of the Tribunal is modified accordingly. Appeal is accordingly partly allowed with no order as to costs.

[K.S. JHAVERI, J.]

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